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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,899	07/02/2001	Kenneth E. Hoffman	1841-1-7	3608

996 7590 07/25/2006

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EXAMINER
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POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/898,899	Applicant(s) HOFFMAN ET AL.	
	Examiner Frantzy Poinvil	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, line 8, it is unclear whether the "at least one bidder" is the same as that referred on line 4.

As per claim 3, line 1, it is also unclear whether the "at least one bidder" is the same as that referred on line 4 of claim 1.

Claims not directly addressed are rejected based on their dependency.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Fisher et al (5,835,896).

As per claims 1-3 and 8-9, Fisher et al disclose a system and method for implementing an auction. The system and method comprise a plurality of user computers connected to an auction system and further comprise:

- Identifying a first auction lot subject to bidding;

- Providing electronic data to the first group comprising information relating to the first auction lot and an initial bid;

- receiving bid information from at least one bidder of the first group concerning the first auction lot;

- providing electronic data to the first group comprising information relating to the received bid information concerning the first auction lot;

- repeating c) and d) until no further bid information is received from any bidder concerning the first auction lot when no bid higher than the last received bid is received within a pre-established period of time, thus concluding bid receiving; and

- providing electronic data to the first group comprising information relating to the last received bid information.

The system of Fisher et al further teaches wherein the virtual environment further comprises a second group having at least one bidder, the method comprising:

- identifying a second auction lot subject to bidding after b) but prior to 9.,
- h) providing electronic data to the second group comprising information relating to the second auction lot and an initial bid after b) but prior to f);

- i) receiving bid information from at least one bidder of the second group concerning the second auction lot;

j) providing electronic data to the second group comprising information relating to the received bid information concerning the second auction lot;

k) repeating i) and j) until no further bid information is received from any bidder concerning the second auction lot when no bid higher than the last received bid is received within a pre-established period of time, thus concluding bid receiving; and

Applicant is directed to columns 6-10.

Thus, Fisher et al teach a user may bid on one more types sets or subset of items or objects or first or second group. Data descriptions are provided to the user. A set time of the auction is established and the item is provided to the winning bidders.


As per claims 4-7, Fisher et al teach at lest one proxy bid administered by the central computer to establish a virtual bidder, and wherein the proxy bid has a value and a fraction of the value is communicated to the first group after a first bid is received from the first group but before the conclusion of bid receiving. Applicant is directed to column 12, line 63 to column 13, line 24. The first auction lot of Fisher et al is also subject to a static auction.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:30AM to 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached at (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**Frantzy Poinvil**  
**Primary Examiner**  
**Art Unit 3628**

FP  
July 17, 2006